

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

Racing Speed Associates, L.L.C. d/b/a ASA
Racing,

Plaintiff,

v.

Louis R. Varney, Jr. and ASA Late Model
Series, L.L.C.,

Defendants.

Civil Action No: 07 C 6785

Judge Matthew F. Kennelly
Magistrate Judge Schenkier

JURY TRIAL DEMANDED

**PLAINTIFF'S MOTION FOR LEAVE TO
FILE FIRST AMENDED COMPLAINT**

Plaintiff, Racing Speed Associates, L.L.C. d/b/a ASA Racing, ("RSA"), moves this Court, pursuant to Rule 15(a), Fed.R.Civ.P. for leave to file its First Amended Complaint, a copy of which is attached as Exhibit A. The facts supporting this motion are as follows:

1. On December 3, 2007, plaintiff filed its one count Complaint for declaratory relief, seeking to invalidate the defendants' U.S. Trademark Registration No. 3,035,680 for the trademark ASA Late Model Series.

2. The First Amended Complaint adds Count II, a claim for unfair competition under §43(a) of the Trademark Act. The Count II claim for injunctive relief and damages arises from the same set of operative facts giving rise to the Complaint and is based on conduct by defendants which have occurred after the filing of the initial Complaint. The addition of Count II should have little or no impact on the scope and the timing of discovery, nor cause any delay in the resolution of this matter. Adding Count II to the litigation will allow for a complete adjudication of the claims in suit.

3. Rule 15(a) provides that "leave shall be freely given when justice so requires." That standard is clearly met in this case. Only preliminary discovery has begun. In this instance, judicial economy and the interests of moving this cause to a complete resolution of all claims will be best served by permitting the filing of the First Amended Complaint (*see* Rule 1, Fed.R.Civ.P.).

WHEREFORE, plaintiff respectfully requests this Court grant its Motion and leave be given to file its First Amended Complaint.

Respectfully submitted,

s/ William L. Niro

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Certification which was filed electronically with the Court through the Electronics Case Filing System on April 11, 2008 will be sent electronically to the following registered counsel of record as identified on the Notice of Electronic Filing ("NEF"):

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